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| APPLICATION NO.         | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------|-------------|----------------------|---------------------|------------------|
| 09/771,328              | 01/26/2001  | Menashe Shahar       | 353600.00901        | 6745             |
| 58076                   | 7590        | 05/09/2007           | EXAMINER            |                  |
| REED SMITH, LLP         |             |                      | TSE, YOUNG TOI      |                  |
| TWO EMBARCADERO CENTER  |             |                      | ART UNIT            | PAPER NUMBER     |
| SUITE 2000              |             |                      | 2611                |                  |
| SAN FRANCISCO, CA 94111 |             |                      |                     |                  |
|                         |             |                      | MAIL DATE           | DELIVERY MODE    |
|                         |             |                      | 05/09/2007          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 09/771,328             | SHAHAR ET AL.       |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | YOUNG T. TSE           | 2611                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 25 April 2007.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4)  Claim(s) 1-9, 11-18 and 23-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 17, 18 and 23-28 is/are allowed.

6)  Claim(s) 1-9 and 11-16 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_ .  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_ . 5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Allowable Subject Matter***

1. The indicated allowability of claims 1-9 and 11-16 is withdrawn in view of the newly discovered reference(s) to Chapman et al.. Therefore, the finality of the last Office Action has been withdrawn. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-9 and 11-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Chapman et al. U. S. Patent No. 7,113,484 (hereinafter “Chapman”).

Chapman discloses a block diagram of a typical two-way hybrid fiber coaxial (HFC) cable network system in Fig. 1 comprising a Head End 102 or a distribution hub which contains a Cable Modem Terminal System (CMTS) 104 that is need when transmitting and receiving data using cable modems.

Figs. 3A, 3B and 4 show the HFC cable network system for channel selection of downstream channels and upstream channels between the CMTS and the cable modems using the conventional Data Over Cable System Interface Specification (DOCSIS) domain, for example, the SP-RFI-I05-991105 was cited by the Applicants in the Information Disclosure Statement (IDS).

Regarding claims 1-2, 4-6, 8, 11-12, and 14-16, referring to Fig. 3A, a current cable modem 316 is synchronized with the CMTS 303a or 304a on a downstream channel 313a or 313b of a plurality of downstream channels by synchronizing the well known symbol timing, forward error correction framing, and recognition of a synchronization message at the cable modem of the DOCSIS domain, the downstream channel of the plurality of downstream channels being transmitted from the CMTS to a plurality of cable modems CMs including the cable modem 361. The cable modem 361 receives the downstream channel a message comprising information regarding parameters for communicating over each of the plurality of downstream channels, determines a selected downstream channel of the plurality of downstream channels for communication with the CMTS, and resynchronizes the cable modem with the CMTS on the selected downstream channel of the plurality of downstream channels. The cable modem 361 also transmits a plurality of upstream channels to the CMTS, determines a selected upstream channel of the plurality of upstream channels for communication with the CMTS based upon priority levels for each of the plurality of upstream channels, and resynchronizes the cable modem with the CMTS on the selected upstream channel of the plurality of upstream channels. See col. 7, lines 11-33, col. 8, lines 35-54, col. 10,

lines 8-59, col. 11, lines 42-54, col. 12, line 21 to col. 13, line 3, col. 13, lines 29-35, col. 16, lines 53-58, col. 17, lines 24-59, col. 18, lines 56-67, col. 20, lines 1-33, and col. 21, lines 47-52.

Figs. 8 and 9 show that the communication of the CMTS and the modems as applied to Figs. 3A, 3B and 4 are wireless CMTS and wireless modems. See col. 24, lines 53-64 and col. 27, line 34 to col. 28, line 19.

Regarding claims 3, 7, and 9, the message comprising information regarding the parameters comprises an instruction that instructs the wireless modem to synchronize on the selected upstream channel is described in col. 21, lines 47-52, and the message comprises an instruction that instructs the wireless modem to synchronize on the selected upstream channel is also well known as used in the DOCSIS domain.

Regarding claim 13, SP-RFI-I05-991105 teaches non-real time polling (page 138 Section 8.2.4 lines 1-11) referenced by the Non-Real-Time Polling Service. SP-RFI-I05-991105 also teaches polling scheme is performed at a lower rate than other communications with the hub (Page 137 Section 8.2.2 lines 1-14).

### ***Allowable Subject Matter***

4. Claims 17-18 and 23-28 are allowed.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jonas et al. relates to broadband wireless access systems and method of dynamically scheduling multiple upstream channel transmission in a broadband wireless access system.

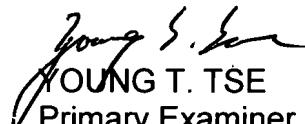
Byers et al. relates to a scanning free space optical broadband access network uses LASERs to carry high-speed data streams between a central location and a number of subscribers served from that location.

Quigley et al. relates to a number of features for enhancing the performance of a cable transmission system in which data is transmitted between a cable modem terminal system at a headend and a plurality of cable modems located different distances from the headend.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOUNG T. TSE whose telephone number is (571) 272-3051. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



YOUNG T. TSE  
Primary Examiner  
Art Unit 2611